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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,855	04/14/2004	Fritz Maurer	CS-7515D/LeA 34,465D	5503
34469	7590	02/07/2006	EXAMINER	
BAYER CROPSCIENCE LP			SAEED, KAMAL A	
Patent Department			ART UNIT	
100 BAYER ROAD			PAPER NUMBER	
PITTSBURGH, PA 15205-9741			1626	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,855

Applicant(s)

MAURER ET AL.

Examiner

Kamal A. Saeed

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claims 1 – 12 have been cancelled. Therefore, claims 13 and 14 are currently pending in this application.

Response to Amendment

The rejections of claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, have been overcome by the amendment filed on 04 November 2005.

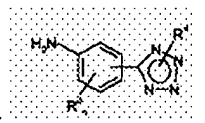
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 13 and 14 are rejected under 35 U.S.C. 102 (a) as being anticipated by US Patent No. 4,286,090 or 3,838,126.



Claims 13 and 14 are directed to compounds of Formula

wherein

R⁴ represents chlorine, fluorine, methyl or trifluoromethyl,

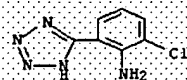
n represents 1 or 2, and

R⁵ is as defined in Claim 13 represents hydrogen, optionally substituted alkyl, optionally substituted alkenyl, alkoxyalkyl, alkoxy carbonylalkyl, alkoxy carbonyloxyalkyl, alkylsulfonyl, diaminoalkyl, in each case optionally substituted aryl, arylalkyl or arylsulfonyl, in each case optionally substituted cycloalkyl or cycloalkylalkyl or in each case optionally substituted heterocyclyl or heterocyclylalkyl, and the position of substitution of the tetrazole on the phenyl ring is in the 2-, 3- or 4-position.

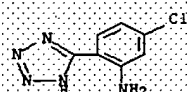
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US Patent No. 3,838,126, teach compounds of Formula

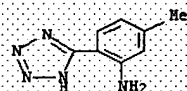
RN 26803-78-1 CAPLUS
CN Benzenamine, 2-chloro-6-(1H-tetrazol-5-yl)- (9CI) (CA INDEX NAME)



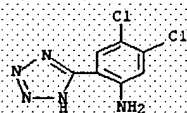
RN 54013-18-2 CAPLUS
CN Benzenamine, 5-chloro-2-(1H-tetrazol-5-yl)- (9CI) (CA INDEX NAME)



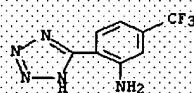
RN 54013-19-3 CAPLUS
CN Benzenamine, 5-methyl-2-(1H-tetrazol-5-yl)- (9CI) (CA INDEX NAME)



RN 54013-21-7 CAPLUS
CN Benzenamine, 4,5-dichloro-2-(1H-tetrazol-5-yl)- (9CI) (CA INDEX NAME)



RN 54013-22-8 CAPLUS
CN Benzenamine, 2-(1H-tetrazol-5-yl)-5-(trifluoromethyl)- (9CI) (CA INDEX NAME)

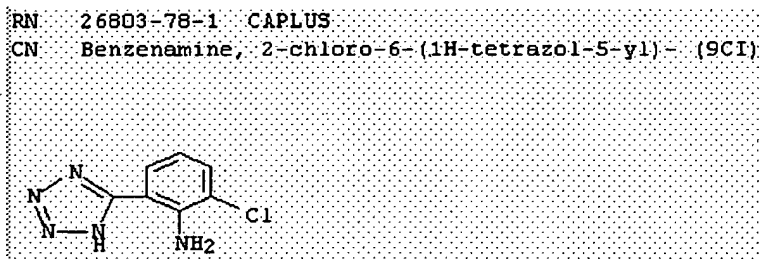


that read in the instant claims when R3 and R4 are as defined. See attached CAS

ABSTRACT.

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US Patent No. 4,286,090 , teach compounds of Formula



that read in the instant claims when R3 is chlorine and R4 is H.. See attached CAS

ABSTRACT.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamal A Saeed whose telephone number is (571) 272-0705. The examiner can normally be reached on M-T 7:30 AM- 5:00 PM.

Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or public PAIR only. For more information about the pair system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.



KAMAL A. SAEED, PH.D.
PRIMARY EXAMINER